

REMARKS

Claims 1-32 are pending. Independent claims 1, 9, 19, 24, 30, 31, and 32, and dependent claims 5 and 27-28 have been amended by the present amendment.

Applicants respectfully traverse the Office Action rejections and request reconsideration and withdrawal thereof.

I. ANTICIPATION REJECTION

On page 3, the Office Action has rejected claims 1, 2, 6, 8-13, 18, 19, 20, 23, and 30-32 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,476,438 to Edrich (“Edrich”). Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Elements of claims 1, 9, 19, 24, 30, 31, and 32 have been amended to clarify that modulated ultrasound waves are directed towards a “treatment area adjacent to a bone defect or injury.” (Underlining supplied). The claimed invention relates to applying ultrasound waves to treat injured tissue such as a bone injuries and bone defects. In contrast, Edrich relates to stimulating nerves in a patient’s head by applying focused ultrasound waves. See FIG. 3, and Col. 4, line 48 – Col. 5, line 3. Edrich does not disclose applying ultrasound waves to other parts of the body other than the head, or that the site of application in the head is adjacent to a bone injury. Therefore, Edrich does not anticipate each and every element of amended claims 1, 9, 19, 24, 30, 31, and 32.

Dependent claims 2, 6, 8, 10-13, 18, 20, and 23 are ultimately dependent from either claim 1, 9, or 19, for which arguments of patentability have been advanced above. If each and every element of the independent claims is not anticipated by Edrich, then each and every element of the respective dependent claims is not anticipated by Edrich.

For at least the reasons above, the anticipation rejection is believed to be traversed.

II. OBVIOUSNESS REJECTION

On pages 5-6, the Office Action has rejected claims 3-5, 14, 15, and 22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,476,438 to Edrich (“Edrich”). Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

As discussed above, claims 1, 9 and 19 have been amended to that modulated ultrasound waves are directed towards a “treatment area adjacent to a bone defect or injury.” (Underlining supplied). The claimed invention relates to applying ultrasound waves to treat injured tissue such as a bone injuries and bone defects. In contrast, Edrich relates to stimulating nerves in a patient’s head by applying focused ultrasound waves. See FIG. 3, and Col. 4, line 48 – Col. 5, line 3. Edrich does not disclose or suggest applying ultrasound waves to other parts of the body other than the head, or that the site of application in the head is adjacent to a bone injury.. Therefore, Edrich does not suggest the limitations of amended claims 1, 9, and 19.

Claims 3-5, 14, 15, and 22 are ultimately dependent from either claim 1, 9, or 19, for which arguments of patentability have been advanced above. Therefore, dependent claims 3-5, 14, 15, and 22 should be allowable over the cited art.

Furthermore, on page 6-7, the Office Action has rejected claims 7, 16, and 21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,476,438 to Edrich (“Edrich”) in view of U.S. Patent No. 6,050,943 to Slayton et al. (“Slayton”). Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

As discussed above, claims 1, 9 and 19 have been amended to that modulated ultrasound waves are directed towards a “treatment area adjacent to a bone defect or injury.” (Underlining supplied). The claimed invention relates to applying ultrasound waves to treat injured tissue such as a bone injuries and bone defects. In contrast, Edrich relates to stimulating nerves in a patient’s head by applying focused ultrasound waves. See FIG. 3, and Col. 4, line 48 – Col. 5, line 3. Edrich does not disclose or suggest applying ultrasound waves to other parts of the body other than the head, or that the site of application in the head is adjacent to a bone injury.. Therefore, Edrich does not suggest the limitations of amended claims 1, 9, and 19.

Claims 7, 16, and 21 are ultimately dependent from either claim 1, 9, or 19, for which arguments of patentability have been advanced above. Therefore, if claims 1, 9, and 19 are in condition for allowance, claims 7, 16, and 21 should also be in condition for allowance.

On pages 7-8, the Office Action has rejected claims 17, and 24-29 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,476,438 to Edrich (“Edrich”) in view of U.S. Patent No. 5,556,372 to Talish (“Talish”). Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

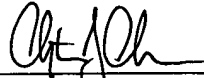
As discussed above, claims 9 and 19 have been amended to that modulated ultrasound waves are directed towards a “treatment area adjacent to a bone defect or injury.” (Underlining supplied). The claimed invention relates to applying ultrasound waves to treat injured tissue such as a bone injuries and bone defects. In contrast, Edrich relates to stimulating nerves in a patient’s head by applying focused ultrasound waves. See FIG. 3, and Col. 4, line 48 – Col. 5, line 3. Edrich does not disclose or suggest applying ultrasound waves to other parts of the body other than the head, or that the site of application in the head is adjacent to a bone injury.. Therefore, Edrich does not suggest the limitations of amended claims 9, and 19.

Claims 17, and 24-29 are ultimately dependent from either claim 1, 9, or 19, for which arguments of patentability have been advanced above. Therefore, if claims 1, 9, and 19 are in condition for allowance, claims 17, and 24-29 should also be in condition for allowance.

CONCLUSION

For at least the reasons given above, it is respectfully submitted that amended independent claims 1, 9, 19, 24, 30, 31, and 32, define patentable subject matter in view of the amendments and remarks made above. Further, it is respectfully requested that immediate allowance of all the pending claims 1-32 and notice thereof be issued. Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below. The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Order Account No. 11-0855.

Respectfully submitted,



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